

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Austin Division

FILED

2024 OCT -4 AM 10:20

U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

CR

Case No.

1:24 CV 01187 RP

(to be filled in by the Clerk's Office)

Victoria Celeste Hernandez

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

St. Vincent De Paul Rehabilitation Services of Texas
Inc., DBA Peak Performers

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Victoria Celeste Hernandez
Street Address	14723 Rancho Vista Dr
City and County	Houston (Harris County)
State and Zip Code	Texas 77083
Telephone Number	(713) 303-6060
E-mail Address	victoriaceleste23@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Peak Performers
Job or Title (if known)	

Street Address	4902 Grover Ave
City and County	Austin (Travis County)
State and Zip Code	Texas 78756
Telephone Number	(512) 453-8833
E-mail Address (if known)	

Defendant No. 2

Name	
Job or Title (if known)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 3

Name	
Job or Title (if known)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 4

Name	
Job or Title (if known)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Peak Performers
Street Address	4902 Grover Ave
City and County	Austin (Travis County)
State and Zip Code	Texas 78756
Telephone Number	(512) 453-8833

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☒ Other federal law *(specify the federal law):*

42 U.S.C. § 2000e-3(a) — Retaliation

☐ Relevant state law *(specify, if known):*

☐ Relevant city or county law *(specify, if known):*

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts *(specify)*:

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
On and after August 3rd

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race _____
☐ color _____
☒ gender/sex _____
☐ religion _____
☐ national origin _____
☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
☐ disability or perceived disability *(specify disability)* _____
-

E. The facts of my case are as follows. Attach additional pages if needed.

I reported an incident (on August 3rd, 2023) of discrimination I faced with the Diversity Inclusion Partner that management was reluctant to pursue as the complaint was against an employee they were fond of. This employee had made racist and misogynistic remarks, even berating me and calling me the "b-word" with another employee as witness. Management purposefully did not perform a proper investigation and instead attempted to intimidate me by writing me up (August 11th, 2023) for speaking up for myself during the incident, calling it insubordination because my supervisor asked for us to end the conversation, but this ignored the fact that this employee continued to berate me, thus I was acting in my rights to defend myself and tell him to stop. I experienced tension with my supervisor from the beginning of my employment as she actively attempted to sabotage me in my role, which was recognized by the now COO, but I was especially met with hostility following my complaint and held a meeting with the CEO (on August 22nd, 2023) to inform her of the incidents and retaliation I was facing. I chose to provide a month's resignation notice to preserve the professional relationships I had created in that time, but on August 30th, 2023 I had to abruptly leave the office to meet police at my home as it was broken into when I was terminated over the phone by the COO for "performance" without any evidence of such. I have since seen this company disparaged my character while deliberately providing untruthful information to the EEOC and TWC to avoid accountability for their negligence in upholding my civil rights. The witness to the incident will provide a truthful account that will show that Peak Performers knowingly provided false information to the agencies. This witness is still employed by the company and may need protection during this time to safely provide testimony without facing retaliation, which is very likely. Peak Performers continued with the narrative that I was never fired as I had resigned, failing to provide the termination notice to both TWC and EEOC. They have fabricated accounts of the incident to deflect the severity of the incident. I was fired at a time that the CEO and COO saw as an opportunity to get rid of me as a legal threat while I was in such a vulnerable position, thinking I would be too weak to continue forward with my claim. Since my incident, 4 other employees have come forward and the company feels empowered as they hide behind the facade of seeming like a gracious company that provides people with disabilities. Truth is, they take advantage of this vulnerable demographic and have denied the 4 others their civil rights for disability accommodations. I have first hand knowledge of the many laws and regulations bypassed by this company to further profit off of this demographic while grossly misappropriating funds and abusing employees. This incident has had profound effects on me for a few reasons:

- The denial around my termination kept me from receiving benefits from the TWC for 4 months after my departure. Once I was given more information by the EEOC that I would qualify, I applied for my unemployment benefits in January 2024. Again, Peak Performers provided false information to derail my claim by denying I was terminated. After an investigation, TWC decided in my favor as they found that I was indeed wrongfully terminated as I had to provide the termination letter. Due to this appeal process, I did not receive any benefits until April 2024. Up until this day, I am still owed 6 weeks of benefits and am including the 4 months that I should have been receiving benefits had Peak Performers not misrepresented my termination.
- This employment experience has brought many mental health issues that I have no history of facing. I am unable to return back to the workforce as I do not trust that the system will uphold my rights. In being denied unemployment benefits compensation, I was also denied an opportunity to seek therapy for the trauma I have incurred at the expense of these experiences.
- For the 5 months wasted in this role and the inability to use the experience on my resume, my career was put at a stand still. While I am not a perfect employee, I was devoted to the cause and performed all tasks expected of me (unless I felt there were legal implications). For the retaliation to go further and deny such has played a factor to my inability to seek other roles with the work gap.
- Upholding this case from the beginning has been a job in itself. I have done this all alone, and while many lawyers have had sympathy for the situation, there is a lack of availability to take on my case, for that reason I am choosing to file Pro Se as I continue seeking counsel. For the many false accusations and misrepresentations of information provided by Peak Performers, these frivolous attempts to intimidate me into dropping my case have taken even more of my time. This company could have accepted accountability from the moment I filed a complaint; instead, they have repeatedly perjured themselves to multiple government agencies in attempt to block my claim.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

12/12/2023

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 7/8/2024.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

\$10,963.00 For my time going without unemployment benefits (September 6th, 2023 - January 20th, 2024) because of Peak Performers attempting to bury my claim.

\$3,462.00 For 6 weeks I am still in the appeal process of receiving due to the investigation performed in which TWC found that Peak Performers had misrepresented my departure.

\$3,076.92 For 2 weeks of pay that I intended to work and was denied due to being wrongfully terminated.

\$80,000.00 For the inability to use my role and time with Peak Performers as they intend to misrepresent my performance in an effort to punish me by manipulating my future career over a year later and the company valued a year of my time with my experience as such amount.

\$60,000.00 For the trauma endured and need for mental health assistance to alleviate the effects to assist me in feeling safe enough to return to the workforce.

\$50,000.00 For the time required to uphold my cases given the extensive effort I have had to further provide to combat the many false statements made by Peak Performers to debilitate my case from proceeding further.

\$275.00 For estimated total of court costs and miscellaneous expenses to file and serve this lawsuit.

While this company claims to have less than 50 employees, they have well over 300 at any given time that they claim when it benefits them to do so. As of 2023, Peak Performers reported over \$700,000 revenue weekly, and this amount has only grown since in addition to receiving grants and donations for being a non-profit.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10/4/2024

Signature of Plaintiff

Printed Name of Plaintiff

Victoria Celeste Hernandez
Victoria Celeste Hernandez

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____